IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH JANUARY 2007 / 15TH POUSHA, 1928

Crl.MC.No. 43 of 2007()

ST.1548/2005 of JUDL. MAGISTRATE OF FIRST CLASS-II(MOBILE), KOTTAYAM

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PETITIONER: ACCUSED

A.KABIR @ AHMED KABIR,
SREYAS BHAVAN, PUNNATHARA (W) P.O.,
ETTUMANOOR, MADATHIPARAMBIL HOUSE,
SEMINARY ROAD, ETTUMANOOR, KOTTAYAM DISTRICT.

BY ADV. SRI.R.REJI

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. K.K.MOHANAN, KONDATTU HOUSE,
M.L.ROAD, KOTTAYAM.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.43 of 2007

Dated this the 5th day of January, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 138 of the N.I Act. The petitioner had entered appearance before the learned Magistrate. He was enlarged on bail. The case was really posted to 20.12.2006 on 19.12.2006. But the petitioner and his counsel, it is submitted, wrongly assumed that the case was posted to 20.01.2007. Non bailable warrant was issued against him consequent to failure to appear on 20.12.2006. The petitioner has now come to this Court for a direction to the learned Magistrate to release him on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not appear on 20.12.2006. It is not necessary for me to consider the acceptability of the cause urged at all. However, I am satisfied that the learned Magistrate must consider the application for bail on merits, in accordance with law and expeditiously. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself. Needless to say, the petitioner must get ready for trial also on the date when he appears before the learned Magistrate.

(R.BASANT, JUDGE)

rtr/-